

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CHAMBERS OF
HAROLD A. ACKERMAN
SENIOR JUDGE

UNITED STATES DISTRICT COURT
POST OFFICE BOX 999
NEWARK, NEW JERSEY 07101-0999

May 12, 2009

Re: *United States v. Rebelo*, No. 01-2120

TO ALL COUNSEL:

This matter comes before the Court on remand from the United States Court of Appeals for the Third Circuit. On March 2, 2005, this Court entered an Opinion and Order granting Plaintiff United States' motion for summary judgment, revoking Defendant Rebelo's citizenship. Specifically, the Court held that Rebelo illegally procured his citizenship because his pre-naturalization conviction for a crime involving moral turpitude rendered him ineligible to show that he had the good moral character required to become a United States citizen. *See United States v. Rebelo*, 358 F. Supp. 2d 400 (D.N.J. 2005). Rebelo had been convicted in the Superior Court of Union County, New Jersey, of third degree aggravated assault in violation of N.J. Stat. Ann. § 2C:12-1b.

While Rebelo's appeal was pending, our Circuit decided *Partyka v. Attorney General*, 417 F.3d 408 (3d Cir. 2005). In that case, the Third Circuit held that Partyka's conviction under the New Jersey statute for third degree assault on a police officer was not a crime involving moral turpitude. On May 9, 2006, without expressing any opinion regarding the proper outcome, the Third Circuit remanded Rebelo's case to this Court to reconsider its decision in light of *Partyka*. Consequently, the parties' motions will be reactivated.

On May 5, 2009, the United States wrote to the Court, offering that it "is prepared to proceed in this matter[.]" (Doc. No. 28.) The Court now requests that the parties apprise the Court of what effect, if any, *Partyka* has on these motions and how the Court should proceed. To that end, the Court sets out the following briefing schedule:

- (1) the United States shall submit a brief, no longer than ten pages, by **Tuesday, June 9, 2009.**
- (2) Rebelo shall submit an opposition brief, no longer than ten pages, by **Tuesday, June 23, 2009.**

There shall be no reply brief.

For the reasons stated above, it is hereby ORDERED that, pursuant to the mandate of the United States Court of Appeals for the Third Circuit, Plaintiff's motion for summary judgment

(Doc. No. 20) and Rebelo's cross-motion for summary judgment (Doc. No. 21) are REINSTATED. The Clerk shall RE-OPEN this case.

SO ORDERED.

s/ Harold A. Ackerman
U.S.D.J.